

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE CONCURRENT RESOLUTION 2044

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO
THE UNLAWFUL EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to the employment of unauthorized workers, is
5 enacted to become valid as a law if approved by the voters and on
6 proclamation of the Governor:

7 AN ACT

8 AMENDING SECTION 13-2002, ARIZONA REVISED STATUTES; AMENDING
9 TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING
10 ARTICLES 2 AND 2.1; AMENDING SECTION 41-763, ARIZONA REVISED
11 STATUTES; AMENDING TITLE 41, CHAPTER 6, ARIZONA REVISED
12 STATUTES, BY ADDING ARTICLE 7.2; AMENDING SECTION 41-1376,
13 ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 8, ARTICLE
14 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1384; AMENDING
15 SECTION 43-1021, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS
16 2005, CHAPTER 316, SECTION 3 AND CHAPTER 317, SECTION 11;
17 REPEALING SECTION 43-1021, ARIZONA REVISED STATUTES, AS AMENDED
18 BY LAWS 2005, CHAPTER 292, SECTION 2; RELATING TO THE EMPLOYMENT
19 OF UNAUTHORIZED WORKERS.

20 Be it enacted by the Legislature of the State of Arizona:

21 Section 1. Section 13-2002, Arizona Revised Statutes, is
22 amended to read:

23 13-2002. Forgery; classification

24 A. A person commits forgery if, with intent to defraud,
25 the person:

26 1. Falsely makes, completes or alters a written
27 instrument; or

28 2. Knowingly possesses a forged instrument; or

29 3. Offers or presents, whether accepted or not, a forged
30 instrument or one that contains false information; OR —

31 4. FALSELY MAKES OR ALTERS A WRITTEN INSTRUMENT THAT
32 PURPORTS TO BE A DOCUMENT THAT FULFILLS THE REQUIREMENTS FOR
33 ESTABLISHING IDENTITY OR ELIGIBILITY TO WORK IN THE UNITED
34 STATES PURSUANT TO THE FEDERAL IMMIGRATION REFORM AND CONTROL
35 ACT OF 1986 AND THAT IS USED TO OBTAIN EMPLOYMENT IN THIS STATE
36 BY A PERSON WHO IS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

37 B. The possession of five or more forged instruments may
38 give rise to an inference that the instruments are possessed
39 with an intent to defraud.

40 C. IF THE COURT ORDERS RESTITUTION FOR A VIOLATION OF
41 SUBSECTION A, PARAGRAPH 4, THE RESTITUTION ORDER SHALL INCLUDE
42 DAMAGES INCURRED BY ANY EMPLOYER WHO RELIED ON A FORGED
43 INSTRUMENT IN HIRING OR EMPLOYING A PERSON WHO WAS NOT
44 AUTHORIZED TO WORK IN THE UNITED STATES, INCLUDING THE
45 EMPLOYER'S COSTS, ATTORNEY FEES AND EXPENSES.

1 ~~C.~~ D. FORGERY PURSUANT TO SUBSECTION A, PARAGRAPH 4 IS A
2 CLASS 3 FELONY. Forgery PURSUANT TO SUBSECTION A, PARAGRAPH 1,
3 2 OR 3 is a class 4 felony.

4 Sec. 2. Title 23, chapter 2, Arizona Revised Statutes, is
5 amended by adding article 2, to read:

6 ARTICLE 2. EMPLOYMENT OF UNAUTHORIZED WORKERS

7 23-211. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "AGENCY" MEANS ANY AGENCY, DEPARTMENT, BOARD OR
10 COMMISSION OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS
11 STATE.

12 2. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT
13 VERIFICATION PILOT PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED
14 STATES DEPARTMENT OF HOMELAND SECURITY AND THE SOCIAL SECURITY
15 ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

16 3. "EMPLOYER" MEANS ANY PERSON WHO OWNS A PERCENTAGE OF
17 THE BUSINESS ENTITY. EMPLOYER DOES NOT INCLUDE SHAREHOLDERS OF
18 COMPANIES WHO HAVE A CLASS OF COMMON EQUITY STOCK LISTED OR
19 AUTHORIZED TO BE LISTED ON THE NEW YORK STOCK EXCHANGE OR THE
20 AMERICAN STOCK EXCHANGE OR LISTED ON THE NASDAQ STOCK MARKET.

21 4. "LICENSE" INCLUDES THE WHOLE OR A PART OF ANY AGENCY
22 OR POLITICAL SUBDIVISION PERMIT, CERTIFICATE, APPROVAL,
23 REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION REQUIRED BY
24 LAW.

25 5. "SANCTION" INCLUDES A FINE, A CIVIL PENALTY OR
26 IMPRISONMENT.

27 6. "UNAUTHORIZED WORKER" MEANS A PERSON WHO IS ALL OF THE
28 FOLLOWING:

29 (a) A PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE
30 UNITED STATES.

31 (b) AN ALIEN WHO IS NOT LAWFULLY ADMITTED FOR PERMANENT
32 RESIDENCE.

33 (c) AN ALIEN WHO IS NOT AUTHORIZED TO BE EMPLOYED UNDER
34 FEDERAL LAW.

35 23-212. Verification of employees; civil and criminal
36 immunity

37 NOTWITHSTANDING ANY OTHER STATUTE, AN EMPLOYER WHO DOES
38 EITHER OF THE FOLLOWING IS NOT SUBJECT TO ANY CIVIL SANCTION OR
39 CRIMINAL PENALTY IMPOSED BY THIS STATE FOR EMPLOYING AN
40 UNAUTHORIZED WORKER:

41 1. VERIFIES THE IMMIGRATION STATUS OF THE EMPLOYER'S
42 EMPLOYEES THROUGH THE BASIC PILOT PROGRAM.

43 2. COMPLIES WITH ALL FEDERAL AND STATE LAWS REGARDING
44 LAWFUL EMPLOYMENT.

1 23-213. Employees: social security numbers

2 A. AN EMPLOYER SHALL DISCHARGE AN EMPLOYEE IF THE
3 EMPLOYER DISCOVERS THAT THE EMPLOYEE PROVIDED AN INVALID SOCIAL
4 SECURITY NUMBER TO THE EMPLOYER, UNLESS THE EMPLOYEE PROVIDES AN
5 ACCURATE SOCIAL SECURITY NUMBER OR A LEGAL AND VALID FEDERAL OR
6 STATE IDENTIFICATION DOCUMENT TO THE EMPLOYER WITHIN TEN
7 BUSINESS DAYS AFTER RECEIVING NOTICE FROM THE EMPLOYER THAT THE
8 INITIAL NUMBER WAS INVALID.

9 B. THIS SECTION DOES NOT APPLY IF AN ERROR OCCURRED WHEN
10 A VALID SOCIAL SECURITY NUMBER WAS PROCESSED BY THE EMPLOYER.

11 23-214. Employment of unauthorized workers; cease and
12 desist notice; civil penalty

13 A. BEGINNING JANUARY 1, 2007, IF AN INVESTIGATION THAT IS
14 INITIATED BY AN AGENCY OR BY A WRITTEN COMPLAINT SUBMITTED BY A
15 PRIVATE PARTY TO AN AGENCY DETERMINES THAT A PERSON WHO OPERATES
16 A BUSINESS OR ENTERPRISE IN THIS STATE EMPLOYS AN UNAUTHORIZED
17 WORKER, AS VERIFIED BY THE AGENCY WITH THE FEDERAL GOVERNMENT,
18 THE AGENCY SHALL NOTIFY THE ATTORNEY GENERAL AND THE ATTORNEY
19 GENERAL SHALL IMMEDIATELY:

20 1. ORDER THE PERSON TO CEASE AND DESIST FROM EMPLOYING
21 THE UNAUTHORIZED WORKER AND TO DISCHARGE FOR CAUSE OTHER
22 UNAUTHORIZED WORKERS THAT ARE EMPLOYED BY THE PERSON IN THIS
23 STATE. THE ATTORNEY GENERAL SHALL CONFIRM THAT THE EMPLOYER
24 RECEIVED THE CEASE AND DESIST ORDER THROUGH AN APPROPRIATE
25 METHOD, INCLUDING BY TELEPHONE, MAIL OR CERTIFIED MAIL. THE
26 PERSON SHALL COMPLY WITH THE CEASE AND DESIST ORDER WITHIN TEN
27 BUSINESS DAYS AFTER THE ATTORNEY GENERAL CONFIRMS THAT THE
28 PERSON RECEIVED THE ORDER, UNLESS THE PERSON HAS GOOD CAUSE TO
29 BELIEVE THAT THE DETERMINATION WAS IN ERROR.

30 2. NOTIFY THE UNITED STATES IMMIGRATION AND CUSTOMS
31 ENFORCEMENT OF THE UNAUTHORIZED WORKER.

32 B. FOR THE PURPOSES OF SUBSECTION A, PROOF OF THE
33 FOLLOWING CIRCUMSTANCES, UNLESS SATISFACTORILY EXPLAINED, MAY
34 GIVE RISE TO THE INFERENCE THAT AN EMPLOYER KNOWINGLY EMPLOYED
35 AN UNAUTHORIZED WORKER:

36 1. THE EMPLOYER PAYS THE EMPLOYEE WITH CASH INSTEAD OF BY
37 CHECK OR AUTOMATIC DEPOSIT.

38 2. THE EMPLOYER USES THE SERVICES OF A PERSON WHO IS
39 REASONABLY KNOWN TO BE VIOLATING TITLE 13, CHAPTER 23 OR TO BE
40 ACTING IN CONCERT WITH OTHERS WHO ARE VIOLATING TITLE 13,
41 CHAPTER 23.

42 3. THE EMPLOYER VIOLATES THE MINIMUM WAGE REQUIREMENTS
43 PRESCRIBED BY THE FEDERAL FAIR LABOR STANDARDS ACT.

1 4. THE EMPLOYER ACCEPTS A CONSULAR IDENTIFICATION CARD
2 THAT IS ISSUED BY A FOREIGN GOVERNMENT AS A FORM OF
3 IDENTIFICATION WHEN DETERMINING THE EMPLOYEE'S IDENTITY.

4 C. THE ATTORNEY GENERAL MAY ASSESS A CIVIL PENALTY OF
5 FIVE THOUSAND DOLLARS AGAINST ANY PERSON WHO FAILS TO COMPLY
6 WITH A CEASE AND DESIST ORDER WITHIN THE TEN BUSINESS DAYS
7 PURSUANT TO SUBSECTION A, PARAGRAPH 1.

8 23-215. Employment of unauthorized workers; failure to
9 comply with cease and desist order; civil cause
10 of action

11 IF A PERSON FAILS TO COMPLY WITH THE CEASE AND DESIST
12 ORDER UNDER SECTION 23-214, THE AGENCY OR THE ATTORNEY GENERAL
13 MAY BRING A CIVIL CAUSE OF ACTION TO HAVE THE PERSON'S LICENSE
14 SUSPENDED OR REVOKED. THE COURT SHALL SUSPEND OR REVOKE THE
15 PERSON'S LICENSE BASED ON THE SEVERITY OF THE OFFENSE.

16 Sec. 3. Title 23, chapter 2, Arizona Revised Statutes, is
17 amended by adding article 2.1, to read:

18 ARTICLE 2.1. UNLAWFUL EMPLOYMENT PRACTICES

19 23-221. Unlawful employment practices; civil penalty;
20 classification; unlawful employment revolving
21 funds; definitions

22 A. ALL EMPLOYERS IN THIS STATE SHALL MAKE PAYMENTS OF
23 CONTRIBUTIONS FOR EMPLOYMENT SECURITY PURPOSES PURSUANT TO
24 SECTION 23-726, SECURE WORKERS' COMPENSATION TO THEIR EMPLOYEES
25 PURSUANT TO SECTION 23-961 AND WITHHOLD FROM EMPLOYEES THE
26 AMOUNTS REQUIRED PURSUANT TO SECTION 43-401. THIS SUBSECTION
27 APPLIES TO ALL EMPLOYERS WHETHER THE EMPLOYER PAYS THE EMPLOYEES
28 BY CASH, CHECK OR AUTOMATIC DEPOSIT.

29 B. ALL EMPLOYERS IN THIS STATE SHALL COMPLETE AND RETAIN
30 I-9 EMPLOYMENT ELIGIBILITY VERIFICATION FORMS FOR ALL EMPLOYEES
31 AS PRESCRIBED BY FEDERAL LAW. IF THE ATTORNEY GENERAL
32 DETERMINES THAT AN EMPLOYER HAS FAILED TO COMPLETE AND RETAIN
33 I-9 EMPLOYMENT ELIGIBILITY VERIFICATION FORMS AS PRESCRIBED BY
34 FEDERAL LAW, THE ATTORNEY GENERAL SHALL NOTIFY THE UNITED STATES
35 CITIZENSHIP AND IMMIGRATION SERVICES.

36 C. AN ENFORCEMENT AGENCY SHALL COORDINATE WITH THE
37 DEPARTMENT OF ECONOMIC SECURITY, THE INDUSTRIAL COMMISSION AND
38 THE DEPARTMENT OF REVENUE TO INVESTIGATE EMPLOYERS IN THIS STATE
39 THAT FAIL TO COMPLY WITH SUBSECTION A OF THIS SECTION.

40 D. IF AN ENFORCEMENT AGENCY DETERMINES SUFFICIENT
41 EVIDENCE EXISTS THAT AN EMPLOYER HAS KNOWINGLY FAILED TO COMPLY
42 WITH SUBSECTION A OF THIS SECTION, THE FOLLOWING APPLY FOR A
43 FIRST VIOLATION OF SUBSECTION A OF THIS SECTION DURING A ONE
44 YEAR PERIOD:

1 1. THE ENFORCEMENT AGENCY SHALL MAIL A WRITTEN NOTICE TO
2 THE EMPLOYER BY CERTIFIED MAIL DESCRIBING THE VIOLATION.

3 2. WITHIN THIRTY DAYS AFTER RECEIVING THE NOTICE UNDER
4 PARAGRAPH 1 OF THIS SUBSECTION, THE EMPLOYER MAY CONTEST THE
5 ENFORCEMENT AGENCY'S DETERMINATION BY NOTIFYING THE ENFORCEMENT
6 AGENCY. AFTER THE EMPLOYER NOTIFIES THE ENFORCEMENT AGENCY THAT
7 THE EMPLOYER IS CONTESTING THE ENFORCEMENT AGENCY'S
8 DETERMINATION, THE EMPLOYER SHALL PROVIDE SUPPORTING EVIDENCE TO
9 THE ENFORCEMENT AGENCY THAT THE EMPLOYER DID NOT VIOLATE
10 SUBSECTION A OF THIS SECTION. THE ENFORCEMENT AGENCY SHALL
11 ALLOW A REASONABLE AMOUNT OF TIME UNDER THIS SUBSECTION FOR THE
12 EMPLOYER TO OBTAIN COPIES OF SUPPORTING INFORMATION AND
13 DOCUMENTS FROM FEDERAL AND STATE AGENCIES.

14 3. AFTER RECEIVING SUPPORTING EVIDENCE UNDER PARAGRAPH 2
15 OF THIS SUBSECTION, THE ENFORCEMENT AGENCY SHALL EVALUATE THE
16 EVIDENCE AND SHALL ISSUE A FINAL DETERMINATION THAT EITHER
17 AFFIRMS THE ORIGINAL DETERMINATION OR DISMISSES THE ORIGINAL
18 DETERMINATION. THE ENFORCEMENT AGENCY SHALL MAIL THE FINAL
19 DETERMINATION BY CERTIFIED MAIL TO THE EMPLOYER.

20 4. IF AN EMPLOYER DOES NOT CONTEST THE ENFORCEMENT
21 AGENCY'S DETERMINATION UNDER PARAGRAPH 2 OF THIS SUBSECTION OR
22 THE EMPLOYER RECEIVES A FINAL DETERMINATION UNDER PARAGRAPH 3 OF
23 THIS SUBSECTION THAT AFFIRMS THE VIOLATION, THE EMPLOYER IS
24 SUBJECT TO A CIVIL PENALTY. THE CIVIL PENALTY IS TWO THOUSAND
25 DOLLARS FOR EACH EMPLOYEE FOR WHICH THE EMPLOYER KNOWINGLY
26 FAILED TO COMPLY WITH THIS SECTION, BUT NOT TO EXCEED TEN
27 THOUSAND DOLLARS. THE ENFORCEMENT AGENCY SHALL TRANSMIT FIFTY
28 PER CENT OF THE MONIES COLLECTED PURSUANT TO THIS PARAGRAPH TO
29 THE STATE TREASURER AND THE STATE TREASURER SHALL DEPOSIT THE
30 MONIES IN THE STATE GENERAL FUND. THE ENFORCEMENT AGENCY SHALL
31 TRANSMIT THE REMAINING FIFTY PER CENT OF THE MONIES COLLECTED
32 PURSUANT TO THIS PARAGRAPH TO EITHER:

33 (a) IF THE ATTORNEY GENERAL WAS THE FIRST ENFORCEMENT
34 AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT BROUGHT FORTH
35 THE ACTION UNDER THIS SUBSECTION, THE STATE TREASURER FOR
36 DEPOSIT IN THE STATE GENERAL FUND.

37 (b) IF THE COUNTY ATTORNEY WAS THE FIRST ENFORCEMENT
38 AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT BROUGHT FORTH
39 THE ACTION UNDER THIS SUBSECTION, THE COUNTY TREASURER FOR
40 DEPOSIT IN THE COUNTY GENERAL FUND.

41 (c) IF THE CITY OR TOWN ATTORNEY WAS THE FIRST
42 ENFORCEMENT AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT
43 BROUGHT FORTH THE ACTION UNDER THIS SUBSECTION, THE CITY OR TOWN
44 TREASURER FOR DEPOSIT IN THE CITY OR TOWN GENERAL FUND.

1 5. AN EMPLOYER WHO IS SUBJECT TO A CIVIL PENALTY UNDER
2 PARAGRAPH 4 OF THIS SUBSECTION IS SUBJECT TO AN ADDITIONAL
3 PENALTY. THE AMOUNT OF THE ADDITIONAL PENALTY IS EQUAL TO THE
4 AMOUNT OF REVENUE, INCLUDING INTEREST, THAT WAS LOST TO THIS
5 STATE BECAUSE OF THE VIOLATION OF THIS SECTION. THE ENFORCEMENT
6 AGENCY SHALL TRANSMIT THE MONIES RECEIVED PURSUANT TO THIS
7 PARAGRAPH TO THE STATE TREASURER AND THE STATE TREASURER SHALL
8 DEPOSIT THE MONIES IN THE STATE GENERAL FUND.

9 E. THE FOLLOWING APPLY FOR A SECOND VIOLATION BY AN
10 EMPLOYER WHO KNOWINGLY FAILS TO COMPLY WITH SUBSECTION A OF THIS
11 SECTION DURING A ONE YEAR PERIOD:

12 1. A SECOND VIOLATION IS A CLASS 1 MISDEMEANOR. THE
13 EMPLOYER IS NOT SUBJECT TO PROSECUTION FOR A SECOND VIOLATION
14 UNLESS THE PROCESS DESCRIBED UNDER SUBSECTION D OF THIS SECTION
15 IS TOTALLY COMPLETED.

16 2. ON CONVICTION, THE COURT MAY ORDER THAT THE EMPLOYER'S
17 LICENSE BE SUSPENDED. IF THE COURT SUSPENDS A LICENSE PURSUANT
18 TO THIS SUBSECTION, THE COURT SHALL NOTIFY THE APPROPRIATE
19 AGENCY AND THE APPROPRIATE AGENCY SHALL IMMEDIATELY SUSPEND THE
20 EMPLOYER'S LICENSE.

21 3. ON CONVICTION, THE COURT SHALL ORDER THE EMPLOYER TO
22 PAY AN ADDITIONAL ASSESSMENT. THE ADDITIONAL ASSESSMENT IS FOUR
23 THOUSAND DOLLARS FOR EACH EMPLOYEE FOR WHICH THE EMPLOYER
24 KNOWINGLY FAILED TO COMPLY WITH THIS SECTION. THE COURT SHALL
25 TRANSMIT FIFTY PER CENT OF THE MONIES COLLECTED PURSUANT TO THIS
26 PARAGRAPH TO THE STATE TREASURER AND THE STATE TREASURER SHALL
27 DEPOSIT THE MONIES IN THE STATE GENERAL FUND. THE COURT SHALL
28 TRANSMIT THE REMAINING FIFTY PER CENT OF THE MONIES COLLECTED
29 PURSUANT TO THIS PARAGRAPH TO EITHER:

30 (a) IF THE ATTORNEY GENERAL WAS THE FIRST ENFORCEMENT
31 AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT BROUGHT FORTH
32 THE ACTION UNDER THIS SUBSECTION, THE STATE TREASURER FOR
33 DEPOSIT IN THE STATE GENERAL FUND.

34 (b) IF THE COUNTY ATTORNEY WAS THE FIRST ENFORCEMENT
35 AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT BROUGHT FORTH
36 THE ACTION UNDER THIS SUBSECTION, THE COUNTY TREASURER FOR
37 DEPOSIT IN THE COUNTY GENERAL FUND.

38 (c) IF THE CITY OR TOWN ATTORNEY WAS THE FIRST
39 ENFORCEMENT AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT
40 BROUGHT FORTH THE ACTION UNDER THIS SUBSECTION, THE CITY OR TOWN
41 TREASURER FOR DEPOSIT IN THE CITY OR TOWN GENERAL FUND.

42 4. ON CONVICTION, THE COURT SHALL ORDER THE EMPLOYER TO
43 PAY AN AMOUNT THAT IS EQUAL TO TWO TIMES THE AMOUNT OF REVENUE,
44 INCLUDING INTEREST, THAT WAS LOST TO THIS STATE BECAUSE OF THE
45 VIOLATION OF THIS SECTION. THE COURT SHALL TRANSMIT THE MONIES

1 RECEIVED PURSUANT TO THIS PARAGRAPH TO THE STATE TREASURER AND
2 THE STATE TREASURER SHALL DEPOSIT THE MONIES IN THE STATE
3 GENERAL FUND.

4 F. THE FOLLOWING APPLY FOR A THIRD VIOLATION BY AN
5 EMPLOYER WHO KNOWINGLY FAILS TO COMPLY WITH SUBSECTION A OF
6 THIS SECTION DURING A ONE YEAR PERIOD:

7 1. A THIRD VIOLATION IS A CLASS 1 MISDEMEANOR AND THE
8 COURT SHALL SENTENCE THE EMPLOYER TO SERVE THE MAXIMUM SENTENCE
9 AUTHORIZED BY LAW.

10 2. ON CONVICTION, THE COURT MAY ORDER THAT THE EMPLOYER'S
11 LICENSE BE SUSPENDED OR REVOKED. IF THE COURT SUSPENDS OR
12 REVOKES A LICENSE PURSUANT TO THIS SUBSECTION, THE COURT SHALL
13 NOTIFY THE APPROPRIATE AGENCY AND THE APPROPRIATE AGENCY SHALL
14 IMMEDIATELY SUSPEND OR REVOKE THE EMPLOYER'S LICENSE.

15 3. ON CONVICTION, THE COURT SHALL ORDER THE EMPLOYER TO
16 PAY AN ADDITIONAL ASSESSMENT. THE ADDITIONAL ASSESSMENT IS SIX
17 THOUSAND DOLLARS FOR EACH EMPLOYEE FOR WHICH THE EMPLOYER
18 KNOWINGLY FAILED TO COMPLY WITH THIS SECTION. THE COURT SHALL
19 TRANSMIT FIFTY PER CENT OF THE MONIES COLLECTED PURSUANT TO THIS
20 PARAGRAPH TO THE STATE TREASURER AND THE STATE TREASURER SHALL
21 DEPOSIT THE MONIES COLLECTED IN THE STATE GENERAL FUND. THE
22 COURT SHALL TRANSMIT THE REMAINING FIFTY PER CENT OF THE MONIES
23 COLLECTED PURSUANT TO THIS PARAGRAPH TO EITHER:

24 (a) IF THE ATTORNEY GENERAL WAS THE FIRST ENFORCEMENT
25 AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT BROUGHT FORTH
26 THE ACTION UNDER THIS SUBSECTION, THE STATE TREASURER FOR
27 DEPOSIT IN THE STATE GENERAL FUND.

28 (b) IF THE COUNTY ATTORNEY WAS THE FIRST ENFORCEMENT
29 AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT BROUGHT FORTH
30 THE ACTION UNDER THIS SUBSECTION, THE COUNTY TREASURER FOR
31 DEPOSIT IN THE COUNTY GENERAL FUND.

32 (c) IF THE CITY OR TOWN ATTORNEY WAS THE FIRST
33 ENFORCEMENT AGENCY THAT INITIATED THE FIRST INVESTIGATION THAT
34 BROUGHT FORTH THE ACTION UNDER THIS SUBSECTION, THE CITY OR TOWN
35 TREASURER FOR DEPOSIT IN THE CITY OR TOWN GENERAL FUND.

36 4. ON CONVICTION, THE COURT SHALL ORDER THE EMPLOYER TO
37 PAY AN AMOUNT THAT IS EQUAL TO THREE TIMES THE AMOUNT OF
38 REVENUE, INCLUDING INTEREST, THAT WAS LOST TO THIS STATE BECAUSE
39 OF THE VIOLATION OF THIS SECTION. THE COURT SHALL TRANSMIT THE
40 MONIES RECEIVED PURSUANT TO THIS PARAGRAPH TO THE STATE
41 TREASURER AND THE STATE TREASURER SHALL DEPOSIT THE MONIES IN
42 THE STATE GENERAL FUND.

43 5. THE ENFORCEMENT AGENCY SHALL RECORD THE JUDGMENT OF
44 THE COURT AS A LIEN AGAINST THE EMPLOYER.

1 G. LAW ENFORCEMENT AUTHORITIES SHALL NOT PROVIDE ANY
2 INCENTIVES TO LAW ENFORCEMENT OFFICERS FOR INVESTIGATING ALLEGED
3 VIOLATIONS OF THIS SECTION.

4 H. THE PENALTIES UNDER THIS SECTION ARE IN ADDITION TO
5 ANY OTHER PENALTIES THAT MAY BE IMPOSED BY LAW.

6 I. FOR THE PURPOSES OF THIS SECTION:

7 1. "EMPLOYER" MEANS ANY PERSON WHO OWNS A PERCENTAGE OF
8 THE BUSINESS ENTITY. EMPLOYER DOES NOT INCLUDE SHAREHOLDERS OF
9 COMPANIES WHO HAVE A CLASS OF COMMON EQUITY STOCK LISTED OR
10 AUTHORIZED TO BE LISTED ON THE NEW YORK STOCK EXCHANGE OR THE
11 AMERICAN STOCK EXCHANGE OR LISTED ON THE NASDAQ STOCK MARKET.

12 2. "ENFORCEMENT AGENCY" MEANS THE ATTORNEY GENERAL OR A
13 COUNTY, CITY OR TOWN ATTORNEY.

14 3. "LICENSE" MEANS THE WHOLE OR A PART OF ANY AGENCY
15 PERMIT, CERTIFICATE, APPROVAL, REGISTRATION, CHARTER OR SIMILAR
16 FORM OF PERMISSION THAT IS REQUIRED BY LAW FOR THE PURPOSES OF
17 OPERATING A BUSINESS IN THIS STATE.

18 Sec. 4. Section 41-763, Arizona Revised Statutes, is
19 amended to read:

20 41-763. Powers and duties of the director relating to
21 personnel

22 The director shall:

23 1. Appoint employees necessary to perform the duties
24 prescribed by this article.

25 2. Have authority for developing and administering a
26 program of personnel administration for the state service in
27 conformance with the personnel rules.

28 3. Have authority to establish such offices as may be
29 necessary to maintain an effective and economical program of
30 personnel administration.

31 4. Have the power to deputize employees in various state
32 agencies where certain of the functions of personnel
33 administration can be performed by such deputies.

34 5. Make an annual report and recommendation to the
35 legislature and the joint legislative budget committee as
36 provided in section 41-763.01.

37 6. Adopt rules relating to personnel and personnel
38 administration.

39 7. Subject to legislative appropriation, have the
40 authority to contract for the services of consultants necessary
41 to perform the annual salary plan and salary plan adjustment
42 recommendations.

43 8. Establish a mandatory program of annual personnel
44 management training for all state employees with supervisory or
45 managerial responsibility that is appropriate to the nature and

1 scope of the employees' supervisory responsibilities. The
2 director may waive the annual mandatory training on a case by
3 case basis. The training shall include at least the following
4 subjects:

- 5 (a) Basic employee supervisory or managerial skills.
- 6 (b) Establishing employee objectives and performance
7 measures.
- 8 (c) Measuring employee performance and the use of
9 performance evaluation methods.
- 10 (d) Employee discipline training and discipline
11 procedures.
- 12 (e) Other subjects as determined by the director.

13 9. VERIFY THE AUTHORIZATION FOR EMPLOYMENT IN THE UNITED
14 STATES OF EVERY STATE EMPLOYEE THROUGH THE BASIC EMPLOYMENT
15 VERIFICATION PILOT PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED
16 STATES DEPARTMENT OF HOMELAND SECURITY AND THE SOCIAL SECURITY
17 ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

18 Sec. 5. Title 41, chapter 6, Arizona Revised Statutes, is
19 amended by adding article 7.2, to read:

20 ARTICLE 7.2. LICENSING ELIGIBILITY AND AUDITS

21 41-1080. Definitions

22 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

23 1. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT
24 VERIFICATION PILOT PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED
25 STATES DEPARTMENT OF HOMELAND SECURITY AND THE SOCIAL SECURITY
26 ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

27 2. "LICENSE" INCLUDES THE WHOLE OR A PART OF ANY AGENCY
28 OR POLITICAL SUBDIVISION PERMIT, CERTIFICATE, APPROVAL,
29 REGISTRATION, CHARTER OR SIMILAR FORM OF PERMISSION REQUIRED BY
30 LAW.

31 3. "UNAUTHORIZED WORKER" MEANS A PERSON WHO IS ALL OF THE
32 FOLLOWING:

33 (a) A PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE
34 UNITED STATES.

35 (b) AN ALIEN WHO IS NOT LAWFULLY ADMITTED FOR PERMANENT
36 RESIDENCE.

37 (c) AN ALIEN WHO IS NOT AUTHORIZED TO BE EMPLOYED UNDER
38 FEDERAL LAW.

39 41-1080.01. Licensing; employee verification; signed
40 affirmation

41 BEFORE RECEIVING A LICENSE FROM AN AGENCY OR POLITICAL
42 SUBDIVISION OF THIS STATE, AN APPLICANT SHALL PROVIDE A SIGNED
43 AFFIRMATION THAT THE APPLICANT HAS COMPLIED WITH ALL FEDERAL AND
44 STATE LAWS REGARDING THE AUTHORIZATION FOR EMPLOYMENT IN THE
45 UNITED STATES OF EVERY EMPLOYEE WHO IS EMPLOYED BY THE

1 APPLICANT. AN AGENCY OR A POLITICAL SUBDIVISION OF THIS STATE
2 SHALL NOT ISSUE A LICENSE TO ANY APPLICANT WHO FAILS TO SUBMIT
3 THE SIGNED AFFIRMATION.

4 41-1080.02. Licensing audits: employee verification:
5 penalties

6 A. BEGINNING JANUARY 1, 2007, EACH AGENCY AND POLITICAL
7 SUBDIVISION OF THIS STATE THAT ISSUES LICENSES SHALL ANNUALLY
8 CONDUCT RANDOM AUDITS OF UP TO FIVE PER CENT OF ALL PERSONS WHO
9 HAVE BEEN ISSUED A LICENSE TO DETERMINE WHETHER THE PERSON
10 KNOWINGLY EMPLOYS ANY UNAUTHORIZED WORKERS. IF AN AGENCY OR
11 POLITICAL SUBDIVISION IS CONDUCTING AN AUDIT OF A PERSON UNDER
12 THIS SECTION, ANOTHER AGENCY OR POLITICAL SUBDIVISION SHALL NOT
13 SIMULTANEOUSLY CONDUCT A SEPARATE AUDIT OF THE PERSON FOR OTHER
14 LICENSES THAT ARE ISSUED TO THE PERSON. WHEN CONDUCTING THE
15 AUDIT, THE AGENCY OR POLITICAL SUBDIVISION:

16 1. SHALL REVIEW THE SIGNED AFFIRMATION THAT THE PERSON
17 SUBMITTED PURSUANT TO SECTION 41-1080.01.

18 2. SHALL REVIEW THE PERSON'S COMPLIANCE WITH FEDERAL AND
19 STATE LAWS REGARDING LAWFUL EMPLOYMENT.

20 3. SHALL REVIEW THE COMPLETED I-9 EMPLOYMENT ELIGIBILITY
21 FORMS THAT THE EMPLOYER IS REQUIRED TO RETAIN UNDER FEDERAL LAW.

22 4. MAY VERIFY THE EMPLOYMENT AUTHORIZATION OF THE
23 PERSON'S EMPLOYEES THROUGH THE BASIC PILOT PROGRAM.

24 B. IF AN AUDIT DETERMINES THAT A PERSON KNOWINGLY EMPLOYS
25 AN UNAUTHORIZED WORKER, THE AGENCY SHALL NOTIFY THE ATTORNEY
26 GENERAL AND THE ATTORNEY GENERAL SHALL IMMEDIATELY:

27 1. ORDER THE PERSON TO CEASE AND DESIST FROM EMPLOYING
28 THE UNAUTHORIZED WORKER AND TO DISCHARGE FOR CAUSE OTHER
29 UNAUTHORIZED WORKERS THAT ARE EMPLOYED BY THE PERSON IN THIS
30 STATE. THE ATTORNEY GENERAL SHALL CONFIRM THAT THE EMPLOYER
31 RECEIVED THE CEASE AND DESIST ORDER THROUGH AN APPROPRIATE
32 METHOD, INCLUDING BY TELEPHONE, MAIL OR CERTIFIED MAIL. THE
33 PERSON SHALL COMPLY WITH THE CEASE AND DESIST ORDER WITHIN TEN
34 BUSINESS DAYS AFTER THE ATTORNEY GENERAL CONFIRMS THAT THE
35 PERSON RECEIVED THE ORDER, UNLESS THE PERSON HAS GOOD CAUSE TO
36 BELIEVE THAT THE DETERMINATION WAS IN ERROR.

37 2. NOTIFY THE UNITED STATES IMMIGRATION AND CUSTOMS
38 ENFORCEMENT OF THE UNAUTHORIZED WORKER.

39 C. FOR THE PURPOSES OF SUBSECTION A, PROOF OF THE
40 FOLLOWING CIRCUMSTANCES, UNLESS SATISFACTORILY EXPLAINED, MAY
41 GIVE RISE TO THE INFERENCE THAT AN EMPLOYER KNOWINGLY EMPLOYED
42 AN UNAUTHORIZED WORKER:

43 1. THE EMPLOYER PAYS THE EMPLOYEE WITH CASH INSTEAD OF BY
44 CHECK OR AUTOMATIC DEPOSIT.

1 2. THE EMPLOYER USES THE SERVICES OF A PERSON WHO IS
2 REASONABLY KNOWN TO BE VIOLATING TITLE 13, CHAPTER 23 OR TO BE
3 ACTING IN CONCERT WITH OTHERS WHO ARE VIOLATING TITLE 13,
4 CHAPTER 23.

5 3. THE EMPLOYER VIOLATES THE MINIMUM WAGE REQUIREMENTS
6 PRESCRIBED BY THE FEDERAL FAIR LABOR STANDARDS ACT.

7 4. THE EMPLOYER ACCEPTS A CONSULAR IDENTIFICATION CARD
8 THAT IS ISSUED BY A FOREIGN GOVERNMENT AS A FORM OF
9 IDENTIFICATION WHEN DETERMINING THE EMPLOYEE'S IDENTITY.

10 D. THE ATTORNEY GENERAL MAY ASSESS A CIVIL PENALTY OF
11 FIVE THOUSAND DOLLARS AGAINST ANY PERSON WHO FAILS TO COMPLY
12 WITH A CEASE AND DESIST ORDER WITHIN THE TEN BUSINESS DAYS
13 PURSUANT TO SUBSECTION B, PARAGRAPH 1.

14 41-1080.03. Employment of unauthorized workers; failure
15 to comply with cease and desist order;
16 civil cause of action

17 IF A PERSON FAILS TO COMPLY WITH THE CEASE AND DESIST
18 ORDER UNDER SECTION 41-1080.02, THE AGENCY OR THE ATTORNEY
19 GENERAL MAY BRING A CIVIL CAUSE OF ACTION TO HAVE THE PERSON'S
20 LICENSE SUSPENDED OR REVOKED. THE COURT SHALL SUSPEND OR REVOKE
21 THE PERSON'S LICENSE BASED ON THE SEVERITY OF THE OFFENSE.

22 Sec. 6. Section 41-1376, Arizona Revised Statutes, is
23 amended to read:

24 41-1376. Powers and duties

25 A. The ombudsman-citizens aide shall:

26 1. Investigate the administrative acts of agencies
27 pursuant to section 41-1377, subsections A and B except as
28 provided in section 41-1377, subsections C, D and E. The
29 ombudsman-citizens aide shall investigate the administrative
30 acts of an agency without regard to the finality of the
31 administrative act.

32 2. Annually before January 1 prepare a written report to
33 the governor, the legislature and the public that contains a
34 summary of the ombudsman-citizens aide's activities during the
35 previous fiscal year. The ombudsman-citizens aide shall
36 semiannually present this report before the legislative
37 council. This report shall include:

38 (a) The ombudsman-citizens aide's mission statement.

39 (b) The number of matters that were within each of the
40 categories specified in section 41-1379, subsection B.

41 (c) Legislative issues affecting the ombudsman-citizens
42 aide.

43 (d) Selected case studies that illustrate the
44 ombudsman-citizens aide's work and reasons for complaints.

1 (e) Ombudsman-citizens aide's contact statistics.

2 (f) Ombudsman-citizens aide's staff.

3 3. Before conducting the first investigation, adopt rules
4 that ensure that confidential information that is gathered will
5 not be disclosed.

6 4. Appoint a deputy ombudsman and prescribe the duties of
7 employees or, subject to appropriation, contract for the
8 services of independent contractors necessary to administer the
9 duties of the office of ombudsman-citizens aide. All staff
10 serves at the pleasure of the ombudsman-citizens aide, and they
11 are exempt from chapter 4, articles 5 and 6 of this title. All
12 staff shall be subject to the conflict of interest provisions of
13 title 38, chapter 3, article 8.

14 5. Before conducting the first investigation, adopt rules
15 that establish procedures for receiving and processing
16 complaints, including guidelines to ensure each complainant has
17 exhausted all reasonable alternatives within the agency,
18 conducting investigations, incorporating agency responses into
19 recommendations and reporting findings.

20 6. Notify the chief executive or administrative officer
21 of the agency in writing of the intention to investigate unless
22 notification would unduly hinder the investigation or make the
23 investigation ineffectual.

24 7. Appoint an assistant to help the ombudsman-citizens
25 aide investigate complaints relating to child protective
26 services in the department of economic security. The assistant
27 shall have expertise in child protective services procedures and
28 laws. Notwithstanding any law to the contrary, the
29 ombudsman-citizens aide and the assistant have access to child
30 protective services records and to any automated case management
31 system used by child protective services in the department of
32 economic security.

33 8. APPOINT AN IMMIGRATION OMBUDSMAN-CITIZENS AIDE WHO
34 SHALL RECEIVE COMPLAINTS AND PROVIDE IMMIGRATION INFORMATION TO
35 EMPLOYERS PURSUANT TO SECTION 41-1384. THE IMMIGRATION
36 OMBUDSMAN-CITIZENS AIDE SERVES AT THE PLEASURE OF THE
37 OMBUDSMAN-CITIZENS AIDE.

38 B. After the conclusion of an investigation and notice to
39 the head of the agency pursuant to section 41-1379, the
40 ombudsman-citizens aide may present the ombudsman-citizens
41 aide's opinion and recommendations to the governor, the
42 legislature, the office of the appropriate prosecutor or the
43 public, or any combination of these persons. The
44 ombudsman-citizens aide shall include in the opinion the reply
45 of the agency, including those issues that were resolved as a

1 result of the ombudsman-citizens aide's preliminary opinion or
2 recommendation.

3 Sec. 7. Title 41, chapter 8, article 5, Arizona Revised
4 Statutes, is amended by adding section 41-1384, to read:

5 41-1384. Immigration ombudsman-citizens aide: assistance
6 with federal immigration laws and employee
7 verification; definitions

8 A. ON RECEIVING A COMPLAINT THAT AN EMPLOYER IN THIS
9 STATE EMPLOYS AN IDENTIFIABLE UNAUTHORIZED WORKER, THE
10 IMMIGRATION OMBUDSMAN-CITIZENS AIDE SHALL FORWARD THE
11 INFORMATION CONTAINED IN THE COMPLAINT TO THE ATTORNEY GENERAL.

12 B. THE IMMIGRATION OMBUDSMAN-CITIZENS AIDE SHALL PROVIDE
13 EMPLOYERS WITH INFORMATION THAT HELPS EMPLOYERS TO PROPERLY
14 COMPLY WITH FEDERAL IMMIGRATION LAWS. THE IMMIGRATION
15 OMBUDSMAN-CITIZENS AIDE SHALL PROVIDE ASSISTANCE TO EMPLOYERS TO
16 ENROLL IN AND USE THE BASIC PILOT PROGRAM.

17 C. FOR THE PURPOSES OF THIS SECTION:

18 1. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT
19 VERIFICATION PILOT PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED
20 STATES DEPARTMENT OF HOMELAND SECURITY AND THE SOCIAL SECURITY
21 ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

22 2. "UNAUTHORIZED WORKER" MEANS A PERSON WHO IS ALL OF THE
23 FOLLOWING:

24 (a) A PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE
25 UNITED STATES.

26 (b) AN ALIEN WHO IS NOT LAWFULLY ADMITTED FOR PERMANENT
27 RESIDENCE.

28 (c) AN ALIEN WHO IS NOT AUTHORIZED TO BE EMPLOYED UNDER
29 FEDERAL LAW.

30 Sec. 8. Section 43-1021, Arizona Revised Statutes, as
31 amended by Laws 2005, chapter 316, section 3 and chapter 317,
32 section 11, is amended to read:

33 43-1021. Additions to Arizona gross income

34 In computing Arizona adjusted gross income, the following
35 amounts shall be added to Arizona gross income:

36 1. A beneficiary's share of the fiduciary adjustment to
37 the extent that the amount determined by section 43-1333
38 increases the beneficiary's Arizona gross income.

39 2. An amount equal to the "ordinary income portion" of a
40 lump sum distribution that was excluded from federal adjusted
41 gross income pursuant to section 402(d) of the internal revenue
42 code.

43 3. The amount of interest income received on obligations
44 of any state, territory or possession of the United States, or
45 any political subdivision thereof, located outside the state of

1 Arizona, reduced, for tax years beginning from and after
2 December 31, 1996, by the amount of any interest on indebtedness
3 and other related expenses that were incurred or continued to
4 purchase or carry those obligations and that are not otherwise
5 deducted or subtracted in arriving at Arizona gross income.

6 4. Annuity income received during the taxable year to the
7 extent that the sum of the proceeds received from such annuity
8 in all taxable years prior to and including the current taxable
9 year exceeds the total consideration and premiums paid by the
10 taxpayer. This paragraph applies only to those annuities with
11 respect to which the first payment was received prior to
12 December 31, 1978.

13 5. The excess of a partner's share of partnership taxable
14 income required to be included under chapter 14, article 2 of
15 this title over the income required to be reported under section
16 702(a)(8) of the internal revenue code.

17 6. The excess of a partner's share of partnership losses
18 determined pursuant to section 702(a)(8) of the internal revenue
19 code over the losses allowable under chapter 14, article 2 of
20 this title.

21 7. The amount by which the adjusted basis of property
22 described in this paragraph and computed pursuant to the
23 internal revenue code exceeds the adjusted basis of such
24 property computed pursuant to this title and the income tax act
25 of 1954, as amended. This paragraph shall apply to all property
26 which is held for the production of income and which is sold or
27 otherwise disposed of during the taxable year, except
28 depreciable property used in a trade or business.

29 8. The amount of depreciation or amortization of costs of
30 any capital investment that is deducted pursuant to section 167
31 or 179 of the internal revenue code by a qualified defense
32 contractor with respect to which an election is made to amortize
33 pursuant to section 43-1024.

34 9. The amount of gain from the sale or other disposition
35 of a capital investment which a qualified defense contractor has
36 elected to amortize pursuant to section 43-1024.

37 10. Amounts withdrawn from the Arizona state retirement
38 system, the corrections officer retirement plan, the public
39 safety personnel retirement system, the elected officials'
40 retirement plan or a county or city retirement plan by an
41 employee upon termination of employment before retirement to the
42 extent they were deducted in arriving at Arizona taxable income
43 in any year.

44 11. That portion of the net operating loss included in
45 federal adjusted gross income which has already been taken as a

1 net operating loss for Arizona purposes or which is separately
2 taken as a subtraction under the special net operating loss
3 transition rule.

4 12. Any nonitemized amount deducted pursuant to section
5 170 of the internal revenue code representing contributions to
6 an educational institution which denies admission, enrollment or
7 board and room accommodations on the basis of race, color or
8 ethnic background except those institutions primarily
9 established for the education of American Indians.

10 13. The amount paid as taxes on property in this state
11 with respect to which a credit is claimed under section 43-1078.

12 14. Amounts withdrawn from a medical savings account by
13 the individual during the taxable year computed pursuant to
14 section 220(f) of the internal revenue code and not included in
15 federal adjusted gross income.

16 15. Any amount of agricultural water conservation
17 expenses that were deducted pursuant to the internal revenue
18 code for which a credit is claimed under section 43-1084.

19 16. The amount by which the depreciation or amortization
20 computed under the internal revenue code with respect to
21 property for which a credit was taken under section 43-1080
22 exceeds the amount of depreciation or amortization computed
23 pursuant to the internal revenue code on the Arizona adjusted
24 basis of the property.

25 17. The amount by which the adjusted basis computed under
26 the internal revenue code with respect to property for which a
27 credit was claimed under section 43-1080 and which is sold or
28 otherwise disposed of during the taxable year exceeds the
29 adjusted basis of the property computed under section 43-1080.

30 18. The amount by which the depreciation or amortization
31 computed under the internal revenue code with respect to
32 property for which a credit was taken under either section
33 43-1081 or 43-1081.01 exceeds the amount of depreciation or
34 amortization computed pursuant to the internal revenue code on
35 the Arizona adjusted basis of the property.

36 19. The amount by which the adjusted basis computed under
37 the internal revenue code with respect to property for which a
38 credit was claimed under section 43-1074.02, 43-1081 or
39 43-1081.01 and which is sold or otherwise disposed of during the
40 taxable year exceeds the adjusted basis of the property computed
41 under section 43-1074.02, 43-1081 or 43-1081.01, as applicable.

42 20. The deduction referred to in section 1341(a)(4) of
43 the internal revenue code for restoration of a substantial
44 amount held under a claim of right.

1 21. The amount by which a net operating loss carryover or
2 capital loss carryover allowable pursuant to section 1341(b)(5)
3 of the internal revenue code exceeds the net operating loss
4 carryover or capital loss carryover allowable pursuant to
5 section 43-1029, subsection F.

6 22. Any amount deducted pursuant to section 170 of the
7 internal revenue code representing contributions to a school
8 tuition organization or a public school for which a credit is
9 claimed under section 43-1089 or 43-1089.01.

10 23. Any amount deducted in computing Arizona gross income
11 as expenses for installing solar stub outs or electric vehicle
12 recharge outlets in this state with respect to which a credit is
13 claimed pursuant to section 43-1090.

14 24. Any wage expenses deducted pursuant to the internal
15 revenue code for which a credit is claimed under section 43-1087
16 and representing net increases in qualified employment positions
17 for employment of temporary assistance for needy families
18 recipients.

19 25. Any amount deducted for conveying ownership or
20 development rights of property to an agricultural preservation
21 district under section 48-5702 for which a credit is claimed
22 under section 43-1081.02.

23 26. The amount of any depreciation allowance allowed
24 pursuant to section 167(a) of the internal revenue code to the
25 extent not previously added.

26 27. With respect to property for which an expense
27 deduction was taken pursuant to section 179 of the internal
28 revenue code, the amount in excess of twenty-five thousand
29 dollars.

30 28. The amount of any deductions that are claimed in
31 computing federal adjusted gross income representing expenses
32 for which a credit is claimed under section 43-1075.

33 29. THE AMOUNT BY WHICH THE DEPRECIATION OR AMORTIZATION
34 COMPUTED UNDER THE INTERNAL REVENUE CODE WITH RESPECT TO
35 PROPERTY FOR WHICH A CREDIT WAS TAKEN UNDER SECTION 43-1090.01
36 EXCEEDS THE AMOUNT OF DEPRECIATION OR AMORTIZATION COMPUTED
37 PURSUANT TO THE INTERNAL REVENUE CODE ON THE ARIZONA ADJUSTED
38 BASIS OF THE PROPERTY.

39 30. THE AMOUNT BY WHICH THE ADJUSTED BASIS COMPUTED UNDER
40 THE INTERNAL REVENUE CODE WITH RESPECT TO PROPERTY FOR WHICH A
41 CREDIT WAS CLAIMED UNDER SECTION 43-1090.01 AND WHICH IS SOLD OR
42 OTHERWISE DISPOSED OF DURING THE TAXABLE YEAR EXCEEDS THE
43 ADJUSTED BASIS OF THE PROPERTY COMPUTED UNDER SECTION
44 43-1090.01.

1 31. THE AMOUNT OF SALARY OR OTHER COMPENSATION THAT IS
2 PAID TO AN UNAUTHORIZED WORKER AND THAT IS DEDUCTED AS A
3 BUSINESS EXPENSE UNDER SECTION 162 OF THE INTERNAL REVENUE
4 CODE. FOR THE PURPOSES OF THIS PARAGRAPH, "UNAUTHORIZED WORKER"
5 MEANS A PERSON WHO IS ALL OF THE FOLLOWING:

6 (a) A PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE
7 UNITED STATES.

8 (b) AN ALIEN WHO IS NOT LAWFULLY ADMITTED FOR PERMANENT
9 RESIDENCE.

10 (c) AN ALIEN WHO IS NOT AUTHORIZED TO BE EMPLOYED UNDER
11 FEDERAL LAW.

12 Sec. 9. Repeal

13 Section 43-1021, Arizona Revised Statutes, as amended by
14 Laws 2005, chapter 292, section 2, is repealed.

15 Sec. 10. Severability; construction

16 A. If any provision of this act or its application to any
17 person or circumstance is held invalid, the invalidity does not
18 affect other provisions or applications of this act that can be
19 given effect without the invalid provision or application, and
20 to this end the provisions of this act are severable.

21 B. All provisions in this act that are relevant to
22 immigration or the classification of aliens shall be construed
23 to be in conformity with federal immigration law.

24 Sec. 11. Short title

25 This act shall be known as and may be cited as the "Fair
26 and Legal Employment Act."

27 2. The Secretary of State shall submit this proposition to the voters
28 at the next general election as provided by article IV, part 1, section 1,
29 Constitution of Arizona.